

REMARKS

The Office Action of August 30, 2006 has been carefully reviewed and these remarks are responsive thereto. Claims 45 and 85 have been amended. Claims 1-44, 46, 50-76 and 78 have been canceled. Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested. Each of the Examiner's rejections is discussed below.

SECTION 112

Claims 45, 47-49, 77, and 79-87 have been rejected under 35 U.S.C. § 112, second paragraph, on the grounds that the phrase "at least one of said plurality of third cleaning elements is spaced from the second surface in the direction of the first surface by the opening" is unclear.

Independent claims 45 and 85 have been amended to more clearly point out that the at least one third cleaning element is spaced from the plane of the second surface by the opening. Claims 45 and 85 are now believed to be in proper form, and an indication to that effect is respectfully requested at this time.

Additionally claims 45 and 85 have been rejected on the grounds that there is no antecedent basis for the phrase "the direction of the first surface." Claims 45 and 85 have been amended in non-limiting fashion to correct this typographical error, and are now believed to be in proper form, and an indication to that effect is respectfully requested at this time.

SECTION 103

Claims 45, 47-48, 77, and 79-84

Claims 45, 47-48, 77, and 79-84 have been rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 3,316,576 to Urbush ("Urbush") in view of U.S. Patent No. 5,839,148 to Volpenheim ("Volpenheim"). This rejection is respectfully traversed.

The combination of Urbush and Volpenheim fails to disclose or make obvious a toothbrush with a discontinuity in the form of an opening in the head directly opposite at least one of a plurality of third cleaning elements when the third cleaning elements are in a static, non-moving condition, as required by independent claim 1.

The third cleaning elements 14 of Urbush are not directly opposite the opening in the head when cleaning elements 14 are in a static non-moving condition. When third cleaning elements 14 are in such a condition, the opening in the head surrounds the third cleaning elements 14; it is not directly opposite the third cleaning elements.

Accordingly the rejection is improper and should be withdrawn.

Claims 85-87

Claims 85-87 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Urbush in view of Volpenheim and U.S. Patent No. 5,896,614 to Flewitt ("Flewitt"). Flewitt is cited as disclosing elastomeric wipers. This rejection is respectfully traversed.

The combination of Urbush, Volpenheim and Flewitt fails disclose or make obvious a toothbrush with movable elastomeric wipers being movable relative to a head within a discontinuity in the form of an opening in the head directly opposite each movable elastomeric wiper when each movable elastomeric wiper is in a static non-moving condition, as required by independent claim 85.

As noted above, the third cleaning elements 14 of Urbush are not directly opposite the opening in the head when cleaning elements 14 are in a static non-moving condition. When third cleaning elements 14 are in such a condition, the opening in the head surrounds the third cleaning elements 14; it is not directly opposite the third cleaning elements. Flewitt simply has no opening in its head.

Accordingly the rejection is improper and should be withdrawn.

Claim 49

Claim 49 has been rejected under 35 U.S.C. § 103(a) over Urbush in view of Volpenheim, U.S. Patent No. 5,813,079 to Halm ("Halm '079"), and U.S. Patent No. 5,951,158 to Halm ("Halm '158"). This rejection is respectfully traversed.

Halm '079 and '158 fail to overcome the deficiencies of Urbush and Volpenheim discussed above since they do not disclose or make obvious a toothbrush with a discontinuity in the form of an opening in the head directly opposite at least one of a plurality of third cleaning elements when the third cleaning elements are in a static non-moving condition, as required by independent claim 1, from which claim 49 depends.

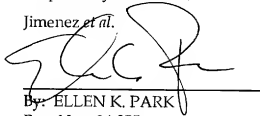
Accordingly the rejection is improper and should be withdrawn.

CONCLUSION

It is respectfully submitted that this application is in condition for allowance. If any additional fees are required or if an overpayment has been made, the Commissioner is authorized to charge or credit Deposit Account No. 03-2455.

Respectfully submitted,

Jimenez *et al.*

A handwritten signature in black ink, appearing to read 'EKP', is written over a horizontal line.

By: ELLEN K. PARK

Reg. No.: 34,055

COLGATE-PALMOLIVE COMPANY

909 River Road; P.O. Box 1343

Piscataway, NJ 08855-1343

Telephone (732) 878-7157

Date: November 27, 2006

EKP/dlh